IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6542 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURENDRA J SHETH

Versus

STATE OF GUJARAT

Appearance:

MR SH SANJANWALA for Petitioners

GOVERNMENT PLEADER for Respondent No. 1

MR RJ OZA for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/11/2000

ORAL JUDGEMENT

The petitioners, two in number, have prayed for a writ of mandamus directing the respondents to pass the bills for double pay submitted by the petitioner and make payment thereof for the period between 6.5.1985 and 17.8.1985 (hereafter referred to as "the period in

question").

2. A large number of Government employees had gone on strike during the relevant period. As an incentive not to proceed on strike during the said period and as a reward for rendering their services during this period, the Government had decided to pay double salary to the officers and employees of the Government. Initially, by Government Resolution dated 14.10.1985 (Annexure "B" to the petition), the Government had directed that double payment would be admissible to "all categories of staff drawing pay in the pay-scales the maximum of which pay-scale did not exceed Rs.2000/-". Thereafter, by Government Resolution dated 15.1.1986 (Annexure "A") and Government Resolution dated 16.7.1987 (Annexure "C"),the Government extended the benefit of double pay for the period in question to the Deputy Secretaries drawing pay in the pay-scale of Rs.2000-2250 and also to the officers of this Court who were drawing pay in the pay-scale of Rs.2000-2250. The petitioners who were Members of the Industrial Tribunal at Ahmedabad at the relevant time submitted representation dated 17.12.1986 for giving the petitioners the said benefit on the ground that the pay-scale of the petitioners was Rs.1600-2250. The request came to be rejected by Government letter dated 5.5.1988 (Annexure "F" Page 22) on the ground that the petitioners' pay scale was higher than Rs.2000/- and that the limit prescribed by the Government Resolution dated 14.10.1985 was Rs.2000/-. Hence, the petitioners filed the present petition challenging non-payment of double salary on the ground of discrimination specifically pointing out in para 4.2 of the petition that "double payment has been sanctioned for other members who were working in the Industrial Court itself at Ahmedabad, Rajkot and Baroda. The petitioners were entitled to double salary on and from 6.5.1985 to 17.8.1985 and they had submitted the bills to the Pay and Accounts Officer, Ahmedabad for being sanctioned. The petitioners have not been so far granted the double pay."

3. Notice in this petition was issued on 12.9.1989. Thereafter on 14.6.1991 Rule was made returnable on 5.7.1991. However, the respondent-State Government has not chosen to file any affidavit in reply. The Court, therefore, proceeds on the basis that the averments made in the petition are correct.

3. While the government employees may not have the right to claim double salary, the fact remains that a large number of officers whose pay-scale did not exceed Rs.2250/- were paid double pay for the period in

question. Such benefit was extended not only to the Deputy Secretaries and the officers of this Court, but as per the averments made in para 4.2 of the petition, such benefit was extended also to the members of the Industrial Tribunal at Rajkot and Baroda. No justification is offered for giving the petitioners a different treatment. There is no dispute about the fact that the pay-scale of the members of the Industrial Tribunal at Rajkot and Baroda is also the same i.e. Rs.1600-2250.

4. In view of the above discussion, the petition is allowed. The respondents are directed to pay the petitioners double pay for the period between 6.5.1985 and 17.8.1985 within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

5. The difference between the amount payable as per this direction and the amount already paid earlier towards salary for the period shall be paid alongwith interest at the rate of 6% (six per cent) for the period from the date of filing of the petition till payment. If the amount is not paid within two months as aforesaid, the respondents shall be liable to pay interest at the rate of 12% p.a. on the aggregate principal amount required to be paid as aforesaid instead of the interest at the rate of 6%.

It is clarified that the liability to pay interest for delayed payments does not exonerate the respondents from any other liability if the respondents make any delay in complying with the aforesaid directions.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(M.S. Shah, J.)

sundar/-